

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 59 (2013), CD1

PROPOSED

A BILL FOR AN ORDINANCE

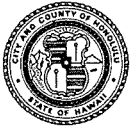
RELATING TO PUBLIC SIDEWALKS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and purpose. The purpose of this ordinance is to prohibit, subject to exceptions, persons from lying on public sidewalks.

The council finds:

- (a) Honolulu is a dense, urban environment where everyone uses the public sidewalk for travel. Maintaining pedestrian and authorized commercial activity on public sidewalks is essential to public safety, thriving neighborhoods and a vital economy in the City. Public sidewalks are created and maintained for the primary purpose of enabling pedestrians to safely and efficiently move about from place to place. Lying down on the sidewalk is not the customary use of the public sidewalks. The need to maintain the flow of pedestrian and authorized commercial traffic on sidewalks is greatest during the hours of operation of businesses, shops, restaurants, and other commercial enterprises when public sidewalks are congested, and when City residents are most likely to use their neighborhood sidewalks. Persons who lie down on public sidewalks during business hours threaten the safety of pedestrians, especially the elderly, disabled, vision-impaired, and children. Persons who lie down on public sidewalks also deter residents and visitors from patronizing local shops, restaurants, businesses, and cultural and art venues, and deter people from using the sidewalks in their neighborhoods. Business areas and neighborhoods become dangerous to pedestrian safety and economic vitality is adversely affected when individuals block the public sidewalks. This behavior causes a cycle of decline as residents and tourists go elsewhere to walk, meet, shop and dine, and residents become intimidated from using the public sidewalks because of obstructions in their own neighborhoods.
- (b) The prohibition against lying on sidewalks leaves intact the individual's right to speak, protest or engage in other lawful activity on any sidewalk consistent with the individual's free speech rights.
- (c) The prohibition narrowly applies only to public sidewalks. There are a number of places where the restrictions of this ordinance do not apply, including private property, beaches, plazas, public parks, public benches,



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and other common areas open to the public. The prohibition contains exceptions for medical emergencies, medical conditions, and expressive activities, among others.

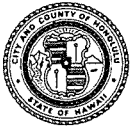
- (e) The council acknowledges that there are reasons why one might lie on a public sidewalk. The City has offered and offers services to those engaged in lying on the sidewalk who appear to be in need, or to those who request service assistance, but who refuse such services in many cases or people who continue the conduct despite the provision of services. The City will continue to invest in services for those in need and to make efforts to maintain and improve safety on public sidewalks for everyone. A law enforcement officer may not issue a citation without first warning a person that lying down is unlawful.
- (f) Present laws that prohibit the obstruction of sidewalks do not adequately address the safety hazards, disruption and deterrence to pedestrian traffic caused by persons lying on sidewalks.

SECTION 2. Chapter 29, Revised Ordinances of Honolulu 1990 ("Streets, Sidewalks, Malls and Other Public Places"), as amended, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article _____. Lying on Public Sidewalks

Sec. 29-___.1 Prohibition-Exceptions-Citations

- (a) No person shall lie on a public sidewalk, or on a tarp, towel, sheet, blanket, sleeping bag, bedding, planter, chair, bench, or any other object or material placed upon a public sidewalk, during the hours of 7:00 a.m. and 11:00 p.m. in the following areas:
 - 1. Chinatown special district;
 - 2. Hawaii capital special district; and
 - 3. Waikiki special district.
- (b) The prohibitions in subsection (a) shall not apply to:
 - (1) Any person lying on a sidewalk due to a medical condition or emergency;



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- (2) Any person lying on a sidewalk for the purpose of engaging in an expressive activity;
 - (3) Any person engaged in a maintenance, repair or construction activity on behalf of a governmental entity or a public utility;
 - (4) Any child who is lying in a baby carriage, stroller, or carrier, or similar device, to move about the public sidewalk; or
 - (5) Any person lying on a chair or bench located on the public sidewalk which is placed there by a public agency.
- (c) No person shall be cited for a violation of this section unless the person engages in conduct prohibited by this article after having been notified by a law enforcement officer that the conduct violates this section.
- (d) As used in this section:

"Chinatown special district" includes the area described in Section 21-9.60-2 and the area bounded by Beretania Street on the north, Alakea Street on the east, Nimitz Highway on the south, and Nuuanu Avenue on the west.

"Expressive activity" means speech or conduct, the principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political, religious, philosophical, or ideological opinions, views, or ideas, and for which no fee is charged or required as a condition of participation in or attendance at such activity. Expressive activity generally would not include sports events, such as marathons; fundraising events; beauty contests; commercial events; cultural celebrations or other events the principal purpose of which is entertainment.

"Hawaii capital special district" means the area described in Section 21-9.30-2.

"Public sidewalk" means a publicly owned or maintained "sidewalk," as defined in Section 29-1.1, and includes a "replacement sidewalk" as defined in that section.

"Waikiki special district" means the area described in Section 21-9.80-2.

Sec. 29-_.2 Penalty.

Any person violating this article shall be fined up to \$50 for each violation."



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SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Stanley Chang

DATE OF INTRODUCTION:

September 5, 2013
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu